

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

IN RE: C.R. BARD, INC., PELVIC) MDL NO.
REPAIR SYSTEM PRODUCTS LIABILITY) 2:10-md-2187
LITIGATION)

IN RE: AMERICAN MEDICAL SYSTEMS,) MDL NO.
INC., PELVIC REPAIR SYSTEM) 2:12-md-2325
PRODUCTS LIABILITY LITIGATION)

IN RE: BOSTON SCIENTIFIC) MDL NO.
CORPORATION, PELVIC REPAIR SYSTEM) 2:12-md-2326
PRODUCTS LIABILITY LITIGATION)

IN RE: ETHICON, INC., PELVIC) MDL NO.
REPAIR SYSTEM PRODUCTS LIABILITY) 2:12-md-2327
LITIGATION)

IN RE: COLOPLAST CORP., PELVIC) MDL NO.
REPAIR SYSTEM PRODUCTS LIABILITY) 2:12-md-2387
LITIGATION)

IN RE: COOK MEDICAL, INC., PELVIC) MDL NO.
REPAIR SYSTEM PRODUCTS LIABILITY) 2:13-md-2440
LITIGATION)

TRANSCRIPT OF STATUS CONFERENCE
BEFORE THE HONORABLE JOSEPH R. GOODWIN,
UNITED STATES DISTRICT JUDGE,
AND CHERYL A. EIFERT,
UNITED STATES MAGISTRATE JUDGE
TUESDAY, JUNE 2, 2015; 1:00 P.M.
CHARLESTON, WV

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1 JUDGE GOODWIN: Good afternoon.

2 THE CLERK: The matter before the Court is In Re.
3 C.R. Bard, Inc., MDL Number 2187; In Re. American Medical
4 Systems, Inc., MDL Number 2325; In Re. Boston Scientific
5 Corporation, MDL Number 2326; In Re. Ethicon, Inc., MDL Number
6 2327; In Re. Coloplast Corp., MDL Number 2387; In Re. Cook
7 Medical, Inc., MDL Number 2440; Pelvic Repair System Products
8 Liability Litigation.

9 JUDGE GOODWIN: Good afternoon. Welcome back to
10 Charleston. The District Court, Judge Eifert and I, and
11 Charleston visitors bureaus and hotels and restaurants welcome
12 you. It's nice to see all of you here today.

13 I have a new court reporter. Mary Schweinhagen is new
14 with the court. If you'll please help her by identifying
15 yourself before you speak, I would greatly appreciate it.

16 Let's move to the agenda items. The first item is in the
17 Bard/Covidien MDL, and just a general status update would be
18 appreciated.

19 MR. GARRARD: Yes, Your Honor.

20 JUDGE GOODWIN: Mr. Gerrard.

21 MR. GARRARD: Over the last several months, there
22 have been multiple depositions taken in the Bard litigation in
23 relation to Wave III cases. Those have gone along
24 cooperatively and productively. There have been a number of
25 discussions among the parties in terms of the cases and where

1 the cases are going, which I think have been productive
2 discussions. And I anticipate that that will continue, Your
3 Honor.

4 I don't know that there is much else to say at the
5 moment.

6 JUDGE GOODWIN: All right. Thank you, Mr. Gerrard.
7 Anything from anybody else?

8 MS. COHEN: Thank you, Your Honor. Good afternoon.
9 Lori Cohen on behalf of Bard.

10 And we agree with the description by Mr. Gerrard. We
11 have been busy working cooperatively with Mr. Gerrard and the
12 plaintiff's counsel on the Wave 200 and the Wave 300. I think
13 everything is where it should be.

14 We've also had some continued discussions on alternative
15 resolution as a parallel other tract with various counsel, and
16 that has been productive as well.

17 JUDGE GOODWIN: Thank you very much.

18 I want to thank counsel. I know that counsel on both
19 sides have been working very hard. This is what I would call
20 a mature MDL. I promised I was going to be nice today.

21 But I sincerely want to comment, as I have in the past,
22 the professionalism of counsel on both sides for the way the
23 litigation's been conducted. It's very difficult when you
24 have this many cases to maintain schedules and everything
25 while keeping cool, and we have very highly qualified

1 professional counsel involved on both sides of these cases,
2 and I very much appreciate it.

3 Thank you.

4 MS. COHEN: Thank you, Your Honor.

5 MR. GARRARD: Thank you, Your Honor.

6 JUDGE GOODWIN: Turn to American Medical System.

7 Ms. Theis.

8 MS. THEIS: Good afternoon, Your Honors. Adriane
9 Theis for American Medical Systems.

10 I'm here to -- I am pleased to say that we are making
11 significant progress with the administrative elements that AMS
12 has entered into in the past year. As we've reported before,
13 in the past year AMS has entered into settlement agreements
14 that are intended to resolve substantially all of the U.S.
15 pelvic mesh claims against the American Medical Systems.

16 Currently, over 280 firms are now participating in one of
17 the AMS settlement agreements. That represents 95 percent of
18 the MDL Plaintiffs Steering Committee, and it also includes
19 liaison counsel for Minnesota, Delaware, New Jersey, and
20 Massachusetts state courts where AMS has cases pending.

21 All the plaintiffs' firms, including plaintiffs, have
22 been offered the opportunity to resolve their claims in one of
23 our settlements subject to --

24 JUDGE GOODWIN: I am sorry. Could you slow down
25 just a little bit?

1 MS. THEIS: Yes.

2 JUDGE GOODWIN: Thank you.

3 MS. THEIS: In cooperation with plaintiffs' counsel,
4 we're making significant progress in implementing the
5 settlements that have been entered into. We continue to issue
6 releases on a weekly basis for claims that have completed and
7 submitted settlement documentation. We also continue to
8 authorize payment for claimants who have returned filed
9 executed releases.

10 As claimants are provided valid releases, and we pay
11 them, AMS continues to work with plaintiffs' counsel to
12 dismiss the cases. And right now approximately 2,500 MDL
13 cases have been dismissed or are currently pending dismissal.

14 And we are also working closely with plaintiffs' counsel
15 to put pending cases awaiting processing on the inactive
16 docket. As of now, we have approximately 2,000 MDL cases on
17 the inactive docket, and we are aiming to have an additional
18 6,000 on the inactive docket by the end of this month, for a
19 total of 8,000 by the end of the month.

20 So we are happy to report that settlements are
21 progressing smoothly with AMS, and we expect that to continue.

22 JUDGE GOODWIN: Thank you very much. I am very
23 pleased with the smooth progress that has been made in
24 carrying out the AMS settlements, virtually all of the claims,
25 some 95 percent. I am pleased that we are not seeing the same

1 bumps in the road that are caused by delays in document
2 production that we had seen in the past and that that has
3 smoothed out now. And that, in fact, by the end of the month,
4 as you say, we should see about 8,000 cases either dismissed
5 or on the inactive docket, which is very, very good progress,
6 I think.

7 MS. THEIS: Thank you, Your Honor.

8 JUDGE GOODWIN: The plaintiff -- any plaintiff's
9 lawyer want to comment on that?

10 MR. GARRARD: No, Your Honor.

11 JUDGE GOODWIN: All right. Turning next to Boston
12 Scientific. Who would like to speak for them?

13 MR. CLARK: Clayton Clark for the plaintiffs, Your
14 Honor.

15 I think we've got good news for the Court with regard to
16 the Boston docket, as you are aware. A number of cases have
17 been tried. We had the cases in West Virginia as well as down
18 in Florida, and then there's been a recent case that was
19 tried.

20 We have now entered settlement negotiations and have
21 gotten very close to finality with at least three significant
22 dockets, and a process has begun to include, I think, all the
23 remainder of Boston Scientific plaintiffs.

24 We're much earlier in that phase, in that stage of
25 learning how to work together with defense counsel and with

1 the executives at Boston to make this process work smoothly,
2 but it's a, it's a positive thing that we are seeing today.
3 We're not fighting as much. We're getting along a little bit
4 better and attempting to get some settlements for you.

5 JUDGE GOODWIN: All right. Defendants have anything
6 they want to add?

7 MR. ADAMS: Yes, Your Honor. Robert Adams for
8 Boston Scientific.

9 And we are in negotiations obviously and working well
10 with plaintiffs' counsel. We're also -- as you are aware, in
11 our Wave cases, you have entered some orders. We have some
12 remand cases, including the case in North Carolina in the fall
13 that we are working on, but I don't anticipate any type of
14 discovery issues.

15 JUDGE GOODWIN: Thank you very much.

16 I am very pleased with the developments, fairly recent
17 developments in the Boston Scientific MDL. My compliments to
18 counsel on working professionally and in very, very good
19 faith.

20 I'll have some comments later about the results of
21 individual cases and what they mean and don't mean in terms of
22 settlements or resolutions. But I will say this: I never
23 dreamed I would have 75,000 cases, I never dreamed I would
24 have seven MDLs, and I never dreamed I would have quite as
25 many good lawyers as I've had. I don't have very many

1 clunkers, and I won't identify them. We are coming along
2 quite nicely now, and I am in much better humor than you found
3 me before. It seems like the times that I have been on the
4 bench in our past meetings I have been giving lectures. I
5 will try to avoid that today.

6 Thank you very much.

7 Next, Cook MDL. Mr. King?

8 MR. KING: Yes, Your Honor. I think we've resolved
9 or had discussions privately with the Court before today
10 that's resolved everything we had to do.

11 One -- we do have one agenda item that was put on at the
12 request of actually one of my paralegals, that we are not
13 being notified when we are being added to other MDLs as a
14 co-defendant through an amended complaint, and we would ask
15 that the Court direct counsel to notify us when that happens.
16 Because we are not learning about it until sometimes later.

17 Thank you. That's the only item we have, beyond what we
18 have talked about.

19 JUDGE GOODWIN: There clearly is an obligation to do
20 that, and I expect people to adhere to it.

21 MR. KING: Thank you.

22 JUDGE GOODWIN: Did plaintiffs have anything to add?

23 MR. ANDERSON: No, Your Honor. This is the first we
24 have heard of that, so we will address it after court.

25 JUDGE GOODWIN: Thank you very much.

1 Next we have Ethicon.

2 MR. AYLSTOCK: Good afternoon, Your Honor. Bryan
3 Aylstock for the plaintiffs.

4 Like the other MDLs, we've always gotten along with our
5 counterparts on the other side, representing Ethicon.

6 JUDGE GOODWIN: Always is a slight exaggeration,
7 isn't it?

8 MR. AYLSTOCK: Maybe so. We have had our
9 disagreements, but Judge Eifert's always been able to handle
10 those for the most part before they get to Your Honor.

11 Discovery is ongoing. As the Court's aware, there is a
12 large number of different products involved in the Ethicon
13 MDL, about a dozen, and so we're continuing to work through
14 the discovery and the privilege log issues.

15 There are trials set throughout the country. Your Honor
16 has one set in late August here, the Edwards case. There is
17 cases set in Texas in July, August, and September; as well as
18 Philadelphia now in state court beginning in December. And
19 Judge Martinotti, who I know you know well, has set a couple
20 of cases for this year as well and also encouraged the parties
21 through his mandatory mediation program, and that's
22 progressing.

23 That's all I have to represent.

24 JUDGE GOODWIN: All right. Ms. Jones.

25 MS. JONES: Ms. Jones on behalf of defendant.

1 I really don't have anything to add to what Mr. Aylstock
2 has said. I think the Court's aware of the status of our
3 negotiations.

4 JUDGE GOODWIN: Thank you.

5 I do know that the parties in the Ethicon MDL have been
6 working diligently with regard to discovery and other matters,
7 and I appreciate, appreciate the efforts.

8 Coloplast. Ms. Varney?

9 MS. VARNEY: Thank you, Your Honor. Lana Varney on
10 behalf of Coloplast.

11 Your Honor, as we reported yesterday with the Plaintiffs
12 Steering Committee, we continue to make steady progress using
13 our early case assessment protocol. We are going to work with
14 the PSC and recirculate this Court's pretrial order number 65
15 which sets out the protocol and encouraged people to submit
16 their cases into the protocol, to get us the medical records
17 by July 31st of this year so we can continue to make progress.

18 JUDGE GOODWIN: Ms. Varney, thank you very much.

19 I'm aware of the progress that you made because I have
20 received reports from both sides, as you know, but I do
21 encourage people to engage in that process, and to the extent
22 that I think it is wise to recirculate that order to allow
23 people to find out about it who may have missed out.

24 Who'd like to speak for the plaintiffs? Is there anybody
25 here named Riley?

1 MR. BURNETT: No.

2 MR. SALIM: Robert Salim for the plaintiffs, Your
3 Honor.

4 Your Honor, we are going to put on the list sort of like
5 we did before where we got good results and send out to every
6 single lawyer in the country who has a case on file reminding
7 them of what the protocol is, what it consists of, and ask
8 them if they have any questions to contact us.

9 The defendants have graciously agreed to extend the
10 deadline under 65 to the end of July, so that will give us
11 some additional time. And we are going to personally reach
12 out and talk with the firms and make sure everybody's aware of
13 the program and has an opportunity to participate that desires
14 to.

15 JUDGE GOODWIN: Well, I appreciate the efforts of
16 Mr. Burnett, Mr. Salim, and Mr. Mueller.

17 I think I should say to all of you, some who may not know
18 this, that these lawyers are acting on behalf of not only
19 themselves and their personal clients but as appointed leaders
20 in the multidistrict litigation. Many of the lawyers here
21 today spend a considerable amount of their time ably
22 representing and communicating with lawyers throughout the
23 nation who have these cases and the effort which was just
24 described, recirculating information, is something that goes
25 on frequently.

1 It is frustrating in any case for lawyers and clients to
2 have adequate communication. One of the struggles that
3 lawyers always have is keeping their clients informed.
4 Clients have an obligation in that regard, too. Many clients
5 don't stay in touch with the lawyers. Some have even moved
6 and not left a forwarding address.

7 But in any event, I applaud the able leadership for their
8 efforts to keep everybody informed.

9 And then I would encourage the individual plaintiffs who
10 have questions about their case to contact their individual
11 lawyers. The leadership will be happy to try to help you
12 where they can, but your lawyer is still responsible for your
13 case, and they are the ones that should be able to provide you
14 with the answers to your questions. If they don't have the
15 answer, they will move swiftly to get it for you.

16 Let's talk about the -- we have something from
17 Mr. Garretson, who has been working on the lien resolution
18 problem and been acting as a lien resolution administrator.

19 MR. GARRETSON: Thank you, Your Honor. Matt
20 Garretson with the Garretson Resolution Group.

21 I will give a brief update, Your Honor, on the federal
22 liens, such as Medicare and Medicaid, as well as some of the
23 other liens that are involved in these settlements.

24 As the Court's aware, on February 27th of 2014, the Court
25 appointed the Garretson Resolution Group as the lien

1 resolution administrator to come up with a consolidated
2 program for resolving all Medicare's interests in any of the
3 cases with any of the TVM defendants, should they settle.

4 As part of that, we went to the government and engaged in
5 negotiations that come up with a global, what we call a global
6 resolution program, which came up with fixed settlement
7 amounts with Medicare by injury category. And the rationale
8 for that, Your Honor, is that if we had to do all these cases
9 one at a time with Medicare, that process of working through
10 the government, working through the contractors could drag on
11 for years.

12 We were also to set up a conduit through which the
13 parties could easily determine which of the claimants were in
14 fact on Medicare -- and so that's called a verification of
15 entitlement procedure -- as well as create a consolidated way
16 to ensure that all of the defendants -- or I am sorry -- that
17 all of the payments to Medicare were made timely.

18 So I am happy to report that much of that work has indeed
19 been completed. We reached an agreement with CMS on June 18th
20 of 2014 that established those procedures, as well as those
21 reimbursement values that I mentioned.

22 So the procedures, again, are designed to be utilized by
23 all claimants who may receive settlements arising out of any
24 of the litigation before you.

25 The other interesting part about this arrangement with

1 the government is because this accomplishes the government's
2 purpose of being reimbursed in every single case, they have
3 agreed to waive the requirements that all the defendants would
4 otherwise have to report every single settlement to the
5 federal government in this matter, and so that's called the
6 MMSEA Section 111 reporting requirements.

7 And should any defendant be interested, we're happy to
8 share with them a copy of that agreement that allows them to
9 bypass that cumbersome process.

10 So the process with respect to Medicare is working
11 smoothly and as planned. On a monthly basis, when we're
12 informed of settlements, we are able to quickly apply these
13 global values that need to be deducted from the settlement
14 amount and repaid to Medicare.

15 That happens, as I said, on a monthly basis. And, again,
16 the way that works, just so the parties have an understanding
17 of that, is for every type of injury -- and just broadly
18 speaking, let's just say non-surgery, outpatient surgery,
19 inpatient surgery, there is an actual fixed dollar amount that
20 goes back to Medicare from each of those categories depending
21 on when the date of entitlement -- when they became entitled
22 to Medicare and when the injury occurred so no one is
23 overpaying, if you will, for the fixed payment amount on
24 account of the date on which they became entitled.

25 So that process, again, is working well. In fact, money

1 is moving back to the federal government on account of the
2 settlements that have already taken place.

3 So that, Your Honor, is Medicare in a nutshell. The
4 process there is going well.

5 With respect to Medicaid, in addition to the Medicare
6 liens, being the federal Medicare Part A and B, of course
7 Medicaid is the program that's administered by the states and
8 the territories that is also part federally funded, so the
9 feds -- the federal government has an interest in seeing those
10 interests repaid as does -- as do the states.

11 So those are addressed according to the terms of any
12 specific Master Settlement Agreement. But in general, it's
13 the state of the art that any settlement that would take place
14 in any MDL would address Medicaid's interests.

15 So, again, mostly good news there as well. That process
16 is working well.

17 With respect to Medicaid, there is three milestones every
18 claimant must go through: The first being verification of
19 entitlement. We go out in this capacity as lien resolution
20 administrator and verify with every state and territory
21 whether any of the settling claimants were, in fact, entitled
22 to Medicaid at any time after the date of their injury through
23 the date of their settlement.

24 After that piece is taken care of, the states agree to a
25 cap, what they will say that, unlike Medicare where we do a

1 fixed amount that's removed from every settlement to pay back
2 Medicare, the states agree on a cap. So like 20 percent, for
3 instance, and say as long as you hold back 20 percent of any
4 gross settlement award, we will allow the balance to flow to
5 the claimant, and then the lien is adjudicated within that 20
6 percent holdback. And when it's finally resolved, the balance
7 is paid back to the claimant.

8 So that's phase two. You have, first, verification of
9 entitlement; two, we have to get the claims in so that you can
10 adjudicate them within that holdback. And then, finally,
11 those are approved.

12 Again, the good news is it's working well in most cases.

13 There are -- well, just some quick statistics. 95
14 percent of all the claimants are cleared through that first
15 gate of verification within 30 days, which means when given a
16 group of claimants, 50 states and 3 territories can tell us if
17 those claimants are, in fact, Medicaid entitled within 30
18 days.

19 Also an interesting statistic, approximately 40 percent
20 of all the mesh claimants have been determined to be entitled
21 to Medicaid thus far.

22 It is at the second of those milestones, getting the
23 claims data back from the states, that we are having
24 difficulty with three states in particular. California,
25 Texas, and Michigan are outside what we would say the

1 generally accepted practices for getting us that claims data.

2 75 percent of all the claims data from all other states
3 are received within 45 days. The -- kind of the upper end of
4 that is 90 days. Regrettably those three states, California,
5 Texas, and Michigan, are averaging more than 250 days to get
6 us that data.

7 I bring it to the Court's attention for a couple reasons.
8 One, obviously, we want to get that process moving and want
9 the courts and parties to be aware of it. It's not as dire as
10 it might seem because there is a holdback in place, right? We
11 are moving money to those women while we adjudicate those
12 liens under that holdback.

13 But like all parties, they want to see this shut down
14 after a period of time, and taking 250 days is a little bit
15 too long.

16 We've reached out to the states. They tell us that they
17 are attempting to pull the claims information from several
18 managed care organizations and other areas. But, again, we're
19 going to watch it closely. We will keep the Court aware of it
20 and the parties aware of it. It's a small percentage, but
21 it's still significant enough that we thought we should bring
22 it to everybody's attention.

23 And finally, to conclude, Your Honor, with respect to
24 private liens, we are the administrator of several of the
25 private lien resolution programs that have been entered into

1 by the settling parties, settling plaintiffs, and groups such
2 as the Rawlins Group or other groups that represent many of
3 the health carriers.

4 Participating in those private lien resolution programs
5 is about 75 percent of the private lien marketplace, meaning
6 75 percent of the covered lives in America, if you were to
7 look at statistically, are covered by plans like United or
8 Humana or Aetna that are participating.

9 There are specific -- like I described with Medicaid,
10 very similar procedures exist for these private liens where
11 there is a cap, and there's time frames through which the
12 lien, the plans agree to provide us that information so the
13 liens can be adjudicated.

14 And, again, those are operating as intended. Some
15 refinements and operational improvements in any process as you
16 would expect, but no issues to report there, Your Honor.

17 The only other area that's similar to Medicaid, just
18 bringing to the parties' attention, all those health plans
19 that are not participating in the private lien resolution
20 program, so roughly 25 percent of the private lien
21 marketplace.

22 Similar to med -- those situations of Medicaid, with a
23 few of those states, having some problems getting responses,
24 and it means that we are holding -- or the parties are holding
25 money that could otherwise be flowing to the claimants.

1 In past settlements, we have informed the Court, as we
2 are doing here today, if it continues, we'd come back and seek
3 further guidance to see what help we could get in getting
4 these last pieces of the puzzle put to bed.

5 But, again, I wanted to bring it to your attention.

6 But all in all, I want to report things are moving
7 smoothly. The tracks that had been laid over the last several
8 months, last year since the appointment, are replicable and
9 now available for any of the claimants and any of the
10 defendants that may settle cases.

11 JUDGE GOODWIN: Thank you, Mr. Garretson. That is
12 an excellent report and reflects very commendable work that
13 you and your firm has done thus far.

14 I can assure you that you will have the assistance of the
15 Court in any fashion that is appropriate to deal with some of
16 the problem areas you have identified. If you believe it
17 would be helpful for me to communicate with the governors or
18 with someone else, we'll talk.

19 MR. GARRETSON: Thank you, Your Honor. Let me see
20 where I can get over the next 30 days. I will report back.

21 Thank you.

22 JUDGE GOODWIN: I'm going to say today mostly good
23 things. This has been a long process. It is not near to the
24 ending, but we are on a path.

25 Now, I talked about the need to get on that path at our

1 last get-together, and I think most of us, but not all, have
2 chosen to do that.

3 There are good faith efforts, and in some cases
4 substantial progress, being made, in some, but not all, of the
5 multidistrict litigation.

6 I encourage the parties. I understand the frustration
7 that exists in each and every individual case, the frustration
8 of each and every plaintiff with the delay in timely
9 resolution, the frustration of each and every defendant who
10 believes they have been sued without justification, or, in the
11 processes, not been provided with information to which they
12 are entitled in order to determine their responsibility.

13 I have said before, it's impossible for the entire
14 federal judiciary to try every one of these cases. I am
15 pleased to say today that I am encouraged enough to believe
16 that's not going to be necessary. We are moving along.

17 I have laid out statistics in the past. I am not going
18 to do that today. I am well aware that there have been
19 verdicts in cases, and there will be verdicts in the future.
20 Recall that there have been both defense verdicts and
21 plaintiffs' verdicts. I urge defendants and plaintiffs'
22 lawyers and plaintiffs themselves not to have undue influence
23 on resolution of these claims.

24 Given the number of claims in these MDLs and in the state
25 courts throughout the country, only a relative few, no matter

1 how hard we try, only a relative few of 100,000 cases will go
2 to jury verdict. Even those cases, they go to trial and
3 result in a plaintiffs' verdict, will spend years in the
4 appellate courts, in the appellate process, before anything is
5 resolved.

6 So I don't mean to go down that detour. I want to say
7 let's just stay on the path that I am encouraged to believe
8 that we are on now in most of these multidistrict litigation
9 cases.

10 I believe that counsel for the defendants and counsel for
11 the plaintiffs are some of the best lawyers in the country.
12 And lawyers are more than simple advocates or valuers in an
13 arena; they are also counselors of law.

14 And I encourage clients who are represented here today,
15 and clients everywhere who learn of this conference, to listen
16 to your lawyers and heed their counsel. They are being paid
17 by you to give you good advice in evaluating your claim and in
18 telling you or suggesting to you what a resolution of that
19 claim should be.

20 I would be the first to tell you if there were short
21 practices that I had noted or anything was wrong with the
22 representation being offered by the leadership in this
23 multidistrict litigation. I can report to you quite the
24 contrary. The lawyers have engaged in the utmost -- have
25 performed with the utmost professionalism and lived up to the

1 standards of lawyering in the best sense.

2 I expect that to continue. I know that it will.

3 In our culture today, news reporting and social media are
4 very important, but importance and accuracy are not always
5 equivalent. I would ask each of you to accurately convey to
6 those to whom you are responsible or are engaged with regard
7 to these matters to convey accurately what you hear, what
8 you've heard.

9 I ask you to tell your clients, counsel, what you should
10 tell them. What your best advice is. What your experience
11 and your judgment and your intelligence and your education
12 tells you is best for your clients.

13 And I would ask them to note, to the extent they hear
14 what I have to say, that they should accept your reports and
15 not always what they might hear some other place.

16 I will have -- and I couldn't resist just a little
17 paragraph lecture. I will have and I will continue to apply
18 pressure, where necessary, to the parties on each side, but I
19 will act in appropriate cases to allow room for parties, who
20 have chosen a path that may lead to resolution, some leeway.

21 Trials will continue, here and elsewhere. But I am
22 encouraged about what I am learning from the parties and have
23 learned here this afternoon. It is the case that each of
24 these lawyers in each of these cases is a necessity in the end
25 being settled one at a time, individually.

1 As a consequence, neither any of you, nor I, will ever
2 know exactly all of the terms of the settlements.
3 Settlements, when they occur, are the result of good faith
4 negotiations between two sides to a dispute. And if both
5 sides are happy or both sides are unhappy, but nevertheless in
6 agreement, that is the end of the process.

7 But it does mean that there is not as much information
8 for me or for you to talk about as we would like. I'll
9 digress, as I often do, to say to you that everybody thinks
10 the judges know what the cases before them are all about. I
11 rarely know more about the cases than what I read in the
12 newspapers or the pleadings that the parties file. In the
13 case of criminal cases, I almost don't know anything except
14 what the indictment says and what I read in my morning
15 newspaper, and that's not always accurate.

16 So frustration will arise because there are things going
17 on that you won't know the details of, and can't and never
18 will.

19 Once again, I turn to you and ask you to trust your
20 lawyers. Some of the best lawyers in America are in this
21 room. Some of the best lawyers in America are in this MDL,
22 and they will give you wise counsel. Follow it.

23 That concludes our status conference for the day, except
24 to ask Judge Eifert if she has anything.

25 JUDGE EIFERT: I have nothing to add.

1 JUDGE GOODWIN: Thanks all of you for attending.

2 Safe travels.

3 (Proceedings concluded at 1:46 a.m.)

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1 CERTIFICATE OF REPORTER

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3 I, Mary A. Schweinhagen, Federal Official Realtime
4 Court Reporter, in and for the United States District Court
5 for the Southern District of West Virginia, do hereby certify
6 that pursuant to Section 753, Title 28, United States Code
7 that the foregoing is a true and correct transcript of the
8 stenographically reported proceedings held in the
9 above-entitled matter and that the transcript page format is
10 in conformance with the regulations of the Judicial Conference
11 of the United States.

12
13 s/Mary A. Schweinhagen

14 _____ JUNE 8, 2015

15 MARY A. SCHWEINHAGEN, RMR, CRR
16 FEDERAL OFFICIAL COURT REPORTER
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